

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANDREW CORZO, SIA HENRY, ALEXANDER LEO-
GUERRA, MICHAEL MAERLENDER, BRANDON
PIYEVSKY, BENJAMIN SHUMATE, BRITTANY
TATIANA WEAVER, and CAMERON WILLIAMS,
individually and on behalf of all others similarly situated,

Case No. 1:22-cv-00125

Plaintiffs,

v.

Hon. Matthew F. Kennelly

BROWN UNIVERSITY, CALIFORNIA INSTITUTE
OF TECHNOLOGY, UNIVERSITY OF CHICAGO,
THE TRUSTEES OF COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK, CORNELL
UNIVERSITY, TRUSTEES OF DARTMOUTH
COLLEGE, DUKE UNIVERSITY, EMORY
UNIVERSITY, GEORGETOWN UNIVERSITY, THE
JOHNS HOPKINS UNIVERSITY, MASSACHUSETTS
INSTITUTE OF TECHNOLOGY, NORTHWESTERN
UNIVERSITY, UNIVERSITY OF NOTRE DAME DU
LAC, THE TRUSTEES OF THE UNIVERSITY OF
PENNSYLVANIA, WILLIAM MARSH RICE
UNIVERSITY, VANDERBILT UNIVERSITY, and
YALE UNIVERSITY,

Defendants.

**JOINT MOTION FOR ENTRY OF SECOND
AMENDED CONFIDENTIALITY ORDER**

The parties jointly move the Court for entry of a Second Amended Confidentiality Order making certain revisions to the Amended Protective Order dated July 28, 2023 (ECF No. 416-1) ("the Confidentiality Order"). The proposed amendments to paragraph 10 add a process by which (1) a filing party may provisionally seal a submission that may include information that

another party has chosen to designate as “Confidential Information,”¹ so that (2) the non-filing party that designated the “Confidential Information” is afforded time to file a motion to seal. The proposed amendments to paragraph 8 clarify that non-parties are afforded certain protections related to their structured data. The parties have engaged in good-faith consultation on this topic—including by telephone on December 18, 2023 and January 5, 2024—and the parties agree to the relief requested herein. Also, pursuant to Paragraph 18 of the Confidentiality Order, the proposed amendments have been provided to the parties and third-parties that have produced Confidential Information.

I. PROPOSED AMENDMENTS REGARDING FILINGS CONTAINING CONFIDENTIAL INFORMATION

Situations have arisen in this case where a party’s submission contains material that another party has designated as Confidential Information. L.R. 26(c) provides that the filing party may provisionally file a document under seal. The standard rule, however, also requires the filing party (whether or not it is the party that designated the material as confidential) to file “at the same time a public-record version” and “move the court for leave to file the document.” L.R. 26(c). The “sealing motion must be filed before or simultaneously with the provisional filing of the document under seal.” *Id.*

In an effort to account for the situation where a party or non-party other than the filing party wants to move to seal material in the filing, the proposed amendments to the Confidentiality Order would establish a process for providing notice and resolving motions to seal. The proposed amendments are reflected in redline in Exhibit A. The parties respectfully

¹The Amended Confidentiality Order defines “Confidential Information” as “information designated as ‘CONFIDENTIAL’ or ‘ATTORNEYS’ EYES ONLY’ by the producing party or non-party.” ECF No. 416-1 ¶ 2.

submit that the proposed procedure is consistent with the intent of Local Rule 26(c), but places the requirement of filing the motion to seal on the party seeking to justify the confidentiality designation. Courts in other complex antitrust matters have adopted similar provisions. *See e.g. In re Suboxone Antitrust Litig.*, 13-MD-2445 (E.D. Pa. Dec. 29, 2013), ECF No. 86.

II. PROPOSED AMENDMENTS REGARDING TREATMENT OF STRUCTURED EDUCATION DATA

The Confidentiality Order also establishes confidentiality protections for admissions and financial-aid data produced in this case. ECF No. 416-1 ¶ 8. Paragraph 8 of the current Confidentiality Order establishes a process whereby a contractor de-identifies the structured data and applies a unique code associated with each applicant or student, in accordance with FERPA. ECF No. 416-1 ¶ 8(d)(i). The parties propose amendments to clarify that the confidentiality protections and the de-identification process are available to non-party colleges and universities subpoenaed for structured data. *See Ex. A.*

III. CONCLUSION

For the reasons stated above, the parties respectfully request that the Court grant their Motion.

Dated: February 2, 2024

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Paragraph 18 of the First Amended Confidentiality Order dated July 28, 2023 (ECF No. 416-1), notice of the relief sought in this Motion was provided to all parties and third-parties that have produced Confidential Information in this Action.

/s/ Richard Schwartz

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